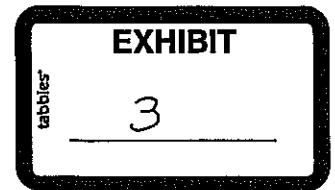


Terry Coble

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**From:** Theresa Noble Hill  
**Sent:** Friday, April 03, 2009 11:48 AM  
**To:** Terry Coble  
**Subject:** FW: State of Oklahoma v. Tyson, et al. Plaintiff's claim for Agency response costs.

Ex. 3



-----Original Message-----

**From:** Ehrich, Delmar R. [mailto:DEhrich@faegre.com]  
**Sent:** Friday, March 20, 2009 5:09 PM  
**To:** Xidis, Claire  
**Cc:** Jorgensen, Jay T.; George, Robert; John Elrod; rsanders@youngwilliams.com; Theresa Noble Hill; Walker, Todd P.; Dolan, Christopher H.; Scott McDaniel; James Graves; Louis Bullock; Richard Garren; Mark\_Quayle@cargill.com  
**Subject:** State of Oklahoma v. Tyson, et al. Plaintiff's claim for Agency response costs.

Claire--

In your March 16, 2009 email, you request clarification as to the Cargill Turkey Production requests for production cited in the third paragraph of my March 13, 2009 communication to you and Mr. Garren. As you surmised, there is a typographical error in this paragraph. The correct citation is to Cargill Turkey Production, LLC's (CTP's) Requests for Production Nos. 29, 32, 37, 38, 39, 44, and 48, served on Plaintiffs on August 22, 2006 in CTP's Amended First Set of Interrogatories and Requests for Production. The narrative description of each request as stated the same paragraph of my March 13, 2009 letter is correct. Moreover, these requests for production are merely examples of areas where Plaintiffs need to supplement their responses in light of their damages/response costs allegations. The supplementation of the same information is warranted under the umbrella CTP Request for Production No. 4, as quoted in my letter, which specifically addresses damages.

In addition, I note that supplementation as to agency response costs is also warranted in response to Cargill, Inc.'s Interrogatory No. 10, which requests: "[S]tate with particularity the factual and legal basis for the allegation contained in Counts 1 and 2 of Your Amended Complaint that any Cargill entity violated CERCLA and identify every witness upon whom you will rely to establish each fact." Since the factual basis for Plaintiffs' CERCLA claim includes their alleged response costs, supplementation of this interrogatory is necessary to disclose those response cost facts.

I will also note that Bruce Jones, in a letter dated October 17, 2008, to David Page and Richard Garren made a general demand that plaintiff supplement its earlier discovery responses, clearly encompassing the requests listed above. The plaintiff made no supplementation.

Accordingly, I renew my demand that the state supplement its responses to the discovery requests listed above relative to the state's claim for agency response costs. Please provide all supplemental responses, including responsive documents, no later than April 1.

Today we have served a Rule 30(b)(6) deposition notice on the state relative to the state's agency response cost claim. The notice is returnable on April 7.

Contact me if you have any comments or questions.

Del Ehrich

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